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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,561	03/23/2004	David L. Marvit	073338.0187 (04-50459 FLA	8346
5073	7590	01/15/2008	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			LIANG, REGINA	
			ART UNIT	PAPER NUMBER
			2629	
			NOTIFICATION DATE	DELIVERY MODE
			01/15/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com  
glenda.orrantia@bakerbotts.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/807,561	<b>Applicant(s)</b> MARVIT ET AL.	
	<b>Examiner</b> Regina Liang	<b>Art Unit</b> 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 103***

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ide et al (US 5,598,187 hereinafter Ide) in view of Lapidot (WO 01/86920).

As to claims 1, 20, Ide discloses a motion controlled handheld device (Figs. 1, 2, 15) comprising:

a gesture database (42 in Fig. 15, col. 14, lines 33-34) maintaining a plurality of gestures, each gesture defined by a motion of the device with respect to a first position of the device;

a gesture mapping database comprising a mapping of each of the gestures to an associated command (42 in Fig. 15, col. 14, lines 35-42);

a motion detection module (motion detectors 30a, 30b) operable to detect motion of the device within three dimensions and to identify components of the motion in relation to the viewable surface;

a display control module having a first mode of motion input operation (pointer function mode in Figs. 1, 2) and a second mode of motion input operation (motion pattern input function mode in Fig. 15);

the display control module operable in the first mode of motion input operation (pointer function mode as disclosed in Figs. 1-3, col. 7, lines 11-29 for example), lines to monitor the motion of the device, to determine a location of the device resulting from the motion, and to

modify the current image based on the resulting location of the device as compared to an initial location of the device prior to the motion of the device;

the display control module operable in the second mode of motion input operation (motion pattern input function mode as disclosed in Fig. 15, col. 13, line 40 to col. 14, lines 42 for example) to monitor the motion of the device, to track movement of the handheld device using the motion detection module, the tracked movement identifying a path traveled by the device, to compare the path the gestures to identify a matching gesture, to identify one of the commands associated with the matching gesture, and to modify the current image based on the identified command; and

a mode selection module operable to detect a mode selection trigger and to switch between the first mode of motion input operation and the second mode of motion input operation in response to detecting the mode selection trigger (col.15, lines 39-44, col. 22, lines 20-41).

Ide does not disclose the handheld device comprising a display. However, Lapidot is cited to teach a handheld device similar to Ide. Lapidot teaches a small handheld device with display screen for controlling the information presented in its display (see Fig. 1 and page 1, lines 16-19). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motion controlled handheld device of Ide to have a display as taught by Lapidot so as to “provide improved hand-held portable devices and a method for conveniently controlling the function of such devices and the presentation of information in their display. The new method improves upon existing methods by reducing the number of keys required to control the device and the information presented in its display, and by making the control simpler and easier to learn and to remember.(page 2, lines 15-22 of Lapidot).

As to claims 2-3, Ide teaches the mode selection trigger comprises a change in a state of the device and the change in the state of the device occurs when the device switches from a first application (Fig. 1) to a second application (Fig. 16).

As to claim 4, Ide teaches the change in the state of the device occurs when the current image switches from a first image (cursor movement in Fig. 1) to a second image (volume control in Fig. 16).

As to claim 5, Ide teaches the mode selection modules switches from the first mode to the second mode in response to detecting a first mode selection trigger, and the mode selection modules switches from the second mode to the first mode in response to detecting a second mode selection trigger different than the first mode selection trigger (col. 22, lines 20-41).

As to claim 6, Ide teaches the mode selection trigger comprises one of the gestures (col. 22, lines 31-32).

As to claim 7, Ide teaches the mode selection trigger comprises non-motion related input received using a user interface of the device (col. 22, lines 30-31, 35-41).

As to claim 8, Figs. 1, 5 of Lapidot teaches a motion controlled device having a mode operation (N) is for neutral condition, the use of movements to control functions of the device or its display unit is disabled (this corresponds to the display control module operable in the third mode of operation to disregard the motion of the device).

As to claim 9, Fig. 6 of Lapidot teaches the handheld device comprising three accelerometers operable to detect acceleration along a first, a second and a third axis.

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Claims 10-19 which method claims corresponding to the above apparatus claims, are rejected for the same reasons as stated above since such method "steps" are clearly read on by the corresponding "means".

***Response to Arguments***

3. Applicant's arguments filed 10/3/07 have been fully considered but they are not persuasive.

In response to applicant's argument on pages 10-12 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Lapidot teaches to "provide improved hand-held portable devices and a method for conveniently controlling the function of such devices and the presentation of information in their display. The new method improves upon existing methods by reducing the number of keys required to control the device and the information presented in its display, and by making the control simpler and easier to learn and to remember (page 2, lines 15-22). Lapidot clearly provided reasons to combine and provide for a display on the remote control device. Therefore, applicant's remarks are not persuasive.

Applicant's remarks on pages 12-13 that "Ide clearly teaches away from any combination that places a display of the device of Ide. Ide refers to its input device as a "spatial control mouse"" are misleading and not persuasive. Although Ide called his handheld device 1 a "spatial

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control mouse", the "spatial control mouse" of Ide is not a conventional mouse as alleged by the applicant. Ide's "spatial control mouse" not only controls the cursor on a screen of a PC (Fig. 3), it also controls multi functions of a multimedia TV or a computer (e.g. see Figs. 12, 17, 33).

Clearly, Ide's "spatial control mouse" is a multi-functions handheld remote controller and not just a mouse as erroneously alleged by applicant. Lapidot teaches a portable hand-held remote controller which is similar to Ide. Page 2, lines 32-35 of Lapidot teaches his device "also relates to hand-held remote control units that are used to control the function of the other devices that are not by themselves portable, such as a TV set, video player or a DVD unit". Thus, to modify the "spatial control mouse" of Ide to have the display screen in the remote controller as taught by Lapidot would have been obvious to one having ordinary skill in the art since a user can control the device while viewing the information presented in its display. Therefore, Applicant's remarks are not persuasive.

Applicant's remarks regarding dependent claims on pages 13-15 are not persuasive, see the rejection above.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

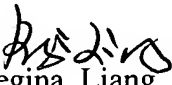
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Regina Liang  
Primary Examiner  
Art Unit 2674

1/7/08